

Paul Gray former Director of Azgen Scientific Holdings, PLC

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Paul Gray, Pro SE

FILED

JAN 22 2020

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTH DISTRICT OF CALIFORNIA
OAKLAND OFFICE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ANTHONY G. LUSTIG

CASE NO. 18-CV-07503-HSG

Plaintiff

v.

AZGEN SCIENTIFIC HOLDINGS, PLC

DEFENDANT

PRAECIPE/NOTICE OF FILING AND RELIEF REQUEST

COMES NOW Paul Gray and hereby and for the reasons stated herein files the instant Praeipe/Notice of Filing and Relief Request, pro se, as a Director of the dissolved Irish Company and Defendant herein, Azgen Scientific Holdings, PLC, and seeks relief in the nature of that afforded by FRCP 60 (b). Paul Gray, pro se, is compelled to file this pleading having only access to docket entries without the accompanying documents

FACTUAL BACKGROUND

In the instant matter, Plaintiff filed a motion for Default Judgment against Azgen Scientific Holdings, PLC (a dissolved Irish Company which cannot defend itself as body corporate) and mailed the same via

international mail, to Defendant Azgen at its Irish address and also to the Spanish address of former Director Luis Siemens in Gran Canarias Spain. The pleading was received on November 26, 2019.

Prior even to the receipt of the pleading both the undersigned and Mr. Siemens, as former Directors of the dissolved company, Defendant Azgen, filed a Notice/Praeipie reflecting the dissolved status of Azgen and seeking relief.

It is suggested that, at a minimum, this pleading reflects "an intention to defend" and forthcoming Motion for Default Judgment – a motion which had not even yet been received by Azgen's former Directors, and thus FRCP 55 (b) (2) is implicated. It is clearly stated in *Wilson v. Moore & Assoc., Inc.*, 564 F.2d 366, 388 (9th Cir, 1977) that "so long as relief is timely sought, any doubt should be resolved in favor of setting aside a default judgment."

On November 29, 2019, the formal Opposition to Plaintiff's Motion for Default Judgment was filed, even though it had to be mailed for filing on November 25, 2019, the day before the Motion for Default Judgment was received. This resulted from the fact that Mr. Gray and Mr. Siemens could only apprise themselves of Court events and filings from a review of docket sheet entries.

WHEREFORE,

In the nature of FRCP 60 (b) Paul Gray, pro se, requests relief from this Honorable Court such that the Court finds FRCP 55 (b) (2) is implicated and that any Default Judgment against Azgen Scientific Holdings, PLC (now dissolved) be vacated, and for such other and further relief as to this Honorable Court may seem just and proper.

Respectfully submitted,

 1/17/2020

Paul Gray, Pro Se

(address)

Former Director of the now dissolved

Azgen Scientific Holdings, PLC

CERTIFICATE OF SERVICE

I, Paul Gray, hereby certify that a copy of the foregoing Praecipe/Notice of Filing and Relief Request, together with the Declaration of Paul Gray, was served upon E. Jeffrey Banchero, Esq. c/o Banchero Law Firm LLP 601 California Street, 13th Floor, San Francisco, CA 94108 and by email at ejb@bancherolaw.com, and was mailed via US Postal Service.

Paul Gray

 1/17/2020

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

ANTHONY G. LUSTIG,)	CASE No.: 18-cv-07503- HSG
Plaintiff)	
)	
v.)	
)	
AZGEN SCIENTIFIC HOLDINGS, PLC.)	
Defendant)	

STATEMENT OF PAUL GRAY AS TO THE AUTHENTICITY OF PLEADING STATEMENTS

I, Paul Gray, do state and depose under penalty of perjury provided for at 17 U.S.C.
1746 as Follows:

This case docket sheet reflects: Anthony G. Lustig v. Azgen Scientific Holdings, PLC

1/9/19: Amended Complaint filed

1/23/19 : Waiver of Service

3/22/19: Order granting Counsel withdrawl *

11/15/19 Motion for Default Judgment (STATING RESPONSES DUE by 11/29

11/25/19 Praecipe/Notice filed

11/25/19 Opposition to Motion For Default (FILED TIMELY)


The factual relevance of these entries is:

- 1.) Counsel withdrawl was proper because the Company had been dissolved in the Republic of Ireland on 2/27/19 and could no longer act as a body corporate under Irish law.

- 2.) The Praecipe/Notice of Filing could be construed as and "intent to defend" the relief sought by Plaintiff by the dissolved Company's former Directors.
- 3.) The Formal Opposition to the Motion for Default Judgement which was due on 11/29/19 was timely filed on 11/29/19 and represents the maximum effort to defend that can be made by a Company dissolved under Irish law through its former Directors

Accordingly, it does seem factually that FRCP 55 (b) (2) should indeed be implicated in that the record contains both a factual reflection of an "intent to defend" and also reflects an actual timely filed Opposition to the Motion for Default Judgment

Signed by me this 17 day of January, 2020, under the penalties of perjury provided for at 28 U.S.C. 1746


Paul Gray

Subscribed hereto and signed under the penalty of perjury as provided for at 28 U.S.C. 1746.


PAUL GRAY, Individually and as

Former Director of Azgen Scientific
Holdings, PLC (now dissolved)